

## Message Text

LIMITED OFFICIAL USE

PAGE 01 TAIPEI 02314 140858Z  
ACTION COME-00

INFO OCT-01 EA-10 ISO-00 EB-08 /019 W  
-----008076 150615Z /10  
R 140848Z APR 78  
FM AMEMBASSY TAIPEI  
TO SECSTATE WASHDC 7095

LIMITED OFFICIAL USE TAIPEI 02314

E.O. 11652: N/A  
TAGS: EIND, TW  
SUBJECT: PATENTS AND TRADEMARKS

REF: A) STATE 70137 B) TAIPEI 1466

1. DURING CALL ON NATIONAL BUREAU OF STANDARDS (NBS) DIRECTOR C. F. WU TO PRESENT INFORMATION ON THE U.S. PATENT OFFICE (PER REFTELS), COMMOFF WAS INFORMED THAT WU HAS FORWARDED PROPOSED REVISIONS IN THE ROC PATENT LAW TO THE EXECUTIVE YUAN, WHICH IS EXPECTED SHORTLY TO SUBMIT THEM TO THE LEGISLATIVE YUAN. WU, WHO JUST ASSUMED HIS DUTIES LATE LAST YEAR, PUSHED COMPLETION OF THE REVISIONS TO BRING THE ANTIQUATED PATENT LAW MORE INTO LINE WITH PRESENT REALITIES AND TO COMPLIMENT THE GOVERNMENT'S DRIVE FOR INCREASED FOREIGN INVESTMENT. (THE PREVIOUS NBS DIRECTOR HAD SUCCESSFULLY BOTTLED UP THE REVISIONS IN MINISTRY OF ECONOMIC AFFAIRS DISCUSSION COMMITTEES FOR THE PAST FIVE YEARS.) FURTHER, TO SPEED PROCESSING OF PATENT APPLICATIONS, WU SECURED MOEA APPROVAL TO ADD 100 MORE PERSONS TO THE PRESENT 98 PERSON STAFF OF THE NBS, AND TO RAISE SALARIES TO PREVAILING LEVELS. FOLLOWING COMPLETION OF THE PATENT LAW REVISION EXERCISE, WU WILL THEN TURN TO REVISION OF THE TRADEMARK LAW.

2. BECAUSE THE TEXT OF THE BILL IS STILL CONSIDERED  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 TAIPEI 02314 140858Z

CONFIDENTIAL, THE EMBASSY RECEIVED ONLY AN ORAL BRIEFING ON PROPOSED MAJOR CHANGES IN THE PRESENT PATENT LAW. THESE CHANGES ARE AS FOLLOWS:

A) FINES FOR PATENT VIOLATIONS WOULD BE RAISED. FOR COUNTERFEITING PATENTED PRODUCTS, THE FINE WOULD BE RAISED TO A LEVEL NOT TO EXCEED 20,000 SILVER DOLLARS (EACH

CHINESE SILVER DOLLAR IS EQUAL TO THREE NEW TAIWAN DOLLARS) FROM THE PRESENT 5,000 SILVER DOLLARS. THE FINE FOR IMITATING THE GENERAL APPEARANCE OF PATENTED PRODUCTS WOULD BE RAISED TO 10,000 SILVER DOLLARS FROM THE 3,000 SILVER DOLLARS. THE FINE FOR ILLEGALLY IMPORTING AND/OR RESELLING PATENTED PRODUCTS WOULD BE RAISED TO 5,000 SILVER DOLLARS FROM 2,000 SILVER DOLLARS.

B) COMPULSORY LICENSING WOULD REPLACE CANCELATION. IF A PATENT HAD NOT BEEN WORKED IN THE ROC THREE YEARS AFTER A PATENT WAS GRANTED, A PERSON WOULD BE ABLE TO APPLY TO THE NBS FOR COMPULSORY LICENSING OF THE PATENTED PROCESS. IF THE PATENT HOLDER AND THE APPLICANT COULD NOT VOLUNTARILY AGREE ON THE LICENSE FEE, THEN THE NBS WOULD BE ABLE TO SET THE AMOUNT OF COMPENSATION TO THE PATENT HOLDER. THIS PROVISION WOULD REPLACE THE PRESENT PROVISION THAT, IF A PATENT REMAINS UNWORKED AFTER A PERIOD OF THREE YEARS, THEN THE PATENT RIGHTS ARE SUBJECT TO OUTRIGHT CANCELATION.

C) RESTRICTION WOULD BE PLACED ON IMPORTS OF PATENTED PRODUCTS FROM THIRD COUNTRIES. ARTICLE 43 WOULD BE AMENDED TO PROVIDE THAT, IF A FOREIGN COMPANY SECURED PATENT RIGHTS FOR A PRODUCT IN THE ROC, BUT MANUFACTURED THE PATENTED PRODUCT IN A THIRD COUNTRY FOR SUBSEQUENT RESALE IN THE ROC, THEN THOSE PRODUCTS COMING FROM THE THIRD COUNTRY WOULD NOT HAVE PATENT PROTECTION. IMPORTS DIRECT FROM THE HOME COUNTRY OF THE COMPANY WHICH LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 TAIPEI 02314 140858Z

REGISTERED THE PATENT WOULD, OF COURSE, CONTINUE TO RECEIVE PROTECTION.

D) PERIOD OF VALIDITY OF PATENT RIGHTS WOULD BE CHANGED. THE PATENT WOULD BE VALID STARTING 15 YEARS AFTER PUBLICATION IN THE OFFICIAL REGISTER, THOUGH THE PERIOD OF VALIDITY WOULD NOT EXCEED 17 YEARS FROM THE FILING OF THE APPLICATION. PATENTS ON NEW DESIGNS WOULD BE VALID FOR 10 YEARS FROM PUBLICATION, AND PATENTS ON "NEW UTILITY MODELS" WILL BE VALID FOR 5 YEARS FROM PUBLICATION. A PATENT IS NOW VALID FOR 15 YEARS STARTING FROM THE TIME THE DATE THE APPLICATION IS FILED.

E) THE PERIOD OF TIME DURING WHICH THE PUBLIC WOULD BE ABLE OBJECT TO THE GRANTING OF A PATENT WOULD BE REDUCED TO ONLY THREE MONTHS FOLLOWING PUBLICATION, FROM THE PRESENT PROVISION ALLOW SIX MONTHS.

F) A PRODUCT OR PROCESS, TO BE PATENTABLE, WOULD MERELY HAVE TO HAVE AN "INDUSTRIAL USE." AT PRESENT, THE PRODUCT HAS TO HAVE "INDUSTRIAL VALUE," A SLIGHTLY MORE SUBJECTIVE CONCEPT.

G) THE REVISIONS WOULD CANCEL THE PRESENT PROVISION THAT AN ROC PATENT APPLICATION HAS TO BE FILED WITHIN ONE YEAR AFTER A FOREIGN COUNTRY GRANTED A PATENT ON

THE SAME PRODUCT. IF PASSED, THERE WOULD BE NO TIME  
LIMITATION ON FILING FOR A ROC PATENT BASED ON THE  
GRANTING OF FOREIGN PATENTS.

3. COMMENT: ALTHOUGH NOT ALL OF THE ABOVE REVISIONS  
WILL NECESSARILY BE WELCOMED BY AMERICAN BUSINESSMEN,  
THIS IS AN IMPORTANT FIRST STEP IN BRINGING ROC PATENT  
AND TRADEMARK PRACTICES UP TO INTERNATIONAL STANDARDS.  
UNGER

LIMITED OFFICIAL USE

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW, PATENTS, TRADEMARKS, AMENDMENTS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 14 apr 1978  
**Decaption Date:** 01 jan 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978TAIPEI02314  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780162-0258  
**Format:** TEL  
**From:** TAIPEI  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1978/newtext/t19780454/aaaabtjm.tel  
**Line Count:** 124  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** ad8f01b0-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION COME  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** n/a  
**Reference:** 78 STATE 70137  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 05 may 2005  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 2959655  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** PATENTS AND TRADEMARKS  
**TAGS:** EIND, TW, US  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odbc://SAS/SAS.dbo.SAS\_Docs/ad8f01b0-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014